

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Petition of Virginia Cellular LLC Petition)	
For Designation as an Eligible)	
Telecommunications Carrier)	
In the State of Virginia)	

**COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association ("CTIA")¹ hereby submits its Comments in the above captioned proceeding² in support of the Petition for eligible telecommunications carrier ("ETC") designation filed by Virginia Cellular LLC ("Virginia Cellular").

INTRODUCTION

On April 26, 2002, Virginia Cellular filed a petition ("*Virginia Cellular Petition*") seeking ETC designation for its services offered throughout its licensed service area in the state of Virginia. Consistent with CTIA's position in earlier comments, CTIA supports Virginia Cellular's petition, which demonstrates that Virginia Cellular meets the requirements for

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² See *Wireline Competition Bureau Seeks Comment on Virginia Cellular LLC Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia*, CC Docket No. 96-45, *Public Notice*, DA 02-1152 (rel. May 15, 2002); *Virginia Cellular LLC Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia, Order*, CC Docket No. 96-45 (rel. May 24, 2002) (extending comment deadline to June 3, 2002).

designation as an ETC and that grant of its request would serve the public interest. Section 214(e)(6) provides for ETC designation of carriers not subject to state commission jurisdiction.

Specifically, Section 214(e)(6) states, in relevant part:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the 2 requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable federal and State law.³

Furthermore, as a commercial mobile radio service (“CMRS”) provider that will make available to consumers a universal service package, the FCC has the authority to grant ETC status to Virginia Cellular pursuant to 47 U.S.C. Sections 214(e)(3) and (e)(6).

DISCUSSION

A. Virginia Cellular Is Not Subject To the Jurisdiction of the Virginia State Corporation Commission

Pursuant to Section 214(e)(6), the Commission shall designate as an ETC a common carrier providing telephone exchange service and exchange access service that is not subject to the jurisdiction of a State commission, so long as the carrier otherwise meets the Act’s requirements. The Commission has held that wireless carriers provide exchange access service: “[M]any CMRS providers (specifically cellular, broadband PCS and covered SMR) also provide telephone exchange service and exchange access as defined by the 1996 Act.”⁴ The Commission has also stated that a carrier may demonstrate that it “is not subject to the jurisdiction of a state

³ 47 U.S.C. §214(e)(6). *See also* Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, *Public Notice*, 12 FCC Rcd 22947 (1997).

⁴ Implementation of the local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, CC Docket 96-98, at ¶1012. *See id.* at ¶1004 (“Congress recognized that some CMRS providers offer telephone exchange and exchange access services”).

commission” by providing an “affirmative statement” from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation.⁵ The Virginia State Corporate Commission (“Virginia SCC”) has provided an affirmative statement that it does not regulate CMRS carriers.⁶

B. Virginia Cellular Offers All Of the Services Supported by Universal Service Support Mechanisms

Virginia Cellular addressed the nine services and functionalities identified in the Commission’s rules, 47 C.F.R. 54.101(a), that are the core services to be offered by an ETC and supported by federal universal service support mechanisms.⁷ Virginia Cellular will provide the supported services over its existing cellular network infrastructure and spectrum, including the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used to serve existing mobile cellular service subscribers.⁸ Virginia Cellular further states that it will advertise its new universal service offering to ensure that consumers within the designated service areas in Virginia are aware of the service. Virginia Cellular has satisfied the requirements of Sections 254 and 214(e)(1)(A) of the Communications Act of 1934 and Section 54.101(a) of the Commission’s rules regarding ETC eligibility.

⁵ See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, *Twelfth Report and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, 12264 (2000).

⁶ See Virginia Cellular Petition at 3-4.

⁷ See Virginia Cellular Petition at 4-8.

⁸ See Virginia Cellular Petition at 9.

C. Designating Virginia Cellular as an ETC will advance the public interest

The Commission must consider the public interest prior to designating Virginia Cellular as an ETC. CTIA agrees with Virginia Cellular that a grant of Virginia Cellular's application will serve the public interest by bringing the benefits of competition to an underserved marketplace and bring new advanced telecommunications services to consumers in Virginia.⁹ Furthermore, designating Virginia Cellular as an ETC promotes the development of advanced communications and is consistent with the principal goals of the universal service program.

⁹ See Virginia Cellular Petition at 14-17.

CONCLUSION

For the foregoing reasons, the Commission should exercise its authority to grant ETC status to Virginia Cellular as described in its Petition.

Respectfully submitted,

/s/ _____

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